

Appl. No. : 10/719,086
Filed : November 21, 2003

REMARKS

In response to the Office Action mailed November 16, 2004, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Allowable Subject Matter

Applicant notes with appreciation that the Examiner has indicated that Claim 8 is in condition for allowance.

Claim Rejections

Claims 1-7, 9 and 21 stand rejected under 35 U.S.C. 103(a) as unpatentable over Winters (USPN 6,123,711) in view of Graf et al. (USPN 6,231,606). Claims 12-14 are rejected under 35 U.S.C. 103(a) as unpatentable over Winters in view of Graft and in further view of Paulose et al. (4,988,351). Applicant respectfully disagrees with the rejection of these claims. Nevertheless, to advance prosecution Applicant has amended independent Claim 1 as outlined below. Applicant reserves the right to pursue Claims 1-7, 9, 12-14 and 21 in their original or similar form in a continuing application.

As amended, Claim 1 now recites, in part, a soft tissue anchor comprising "a proximal anchor comprising a tubular housing having a rounded outer surface portion, the elongate body extending through the tubular housing such that the proximal anchor is moveably carried by the elongate body." In contrast, Winters discloses a tack 30 having a distal post portion 31 dimensioned for insertion into the screw's bore 216. See Col. 4, lines 1-5 and Figure 1. In a similar manner, Graft discloses an anchor member 12, a fastener 14 and a screw 16 configured to fit within the bore 22 of the anchor member 12. See Col. 2, lines 55-60 and Figure 1. In Paulose, the screw 12 includes a head 14 which is fixed to the body of the screw. See Figure 1. As such, the cited references do not disclose, teach or suggest, either alone or in combination, a fixation device with the above-noted limitations. In addition, it would not have been obvious to modify the devices of Winters, Graft or Paulose to include the above-noted limitations because the claimed fixation device has a specific advantage of allowing the proximal anchor to be distally advanced over the body by applying a proximal force to the elongated body while applying a distal force to the proximal anchor.

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For at least these reasons, Applicant submits that Claim 1 is condition for allowance. Claims 2-7, 9, 12-14 and 21 are also in condition for allowance because they depend upon allowable Claim 1 and they recite additional patentable subject matter.

New Claims

Applicant has added new Claims 22-24. Independent Claim 22, recites, in part, a soft tissue anchor comprising an elongate body and "a proximal anchor comprising complementary retention structures and a housing that defines a through-bore, wherein the elongate body extends through the through-bore." The cited art does not disclose, teach or suggest a soft tissue anchor with the above-noted limitation.

Claims 23-24 depend upon allowable Claim 22 and, for at least this reason, Claims 23-24 are also in condition for allowance.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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